THE HON'BLE Mr. JUSTICE C.V. RAMULU

W.P.No.29409 OF 1998

ORDER:-

This Writ Petition is filed seeking a Mandamus directing the respondents herein, to grant the petitioners temporary status and regularize their services in the 2nd respondent-Institute in terms of Casual Labourers (Grant of Temporary Status and Regularisation) – a Government of India Scheme of the year1993, and consequently direct the respondents to extend all the benefits under the Scheme.

It is the case of the petitioners that they were working as daily wage contingent labour in the 2nd respondent-Institute as Sweepers for cleaning bathrooms at hostel, teaching and administrative blocks, and also attending to the development work of horticulture as well as watering plants etc., between the years 1981 and 1995. About 15 contingent labourers were absorbed on regular basis in the posts of Peon, Chowkidar, Farash, Sweeper and Mali sanctioned in the Class-IV category. One Mr. Krishnaiah, a contingent labour, who joined in the year 1984, was also absorbed on regular basis on completion of 240 days, but similar benefit had not been extended to the petitioners. It is their case that contract labour system will not be valid in respect of jobs, which are perennial in nature and forms part of the main activity of the employer. The work being attended to by them forms part of daily and routine functioning of the 2nd respondent-Institute. Further, the Government of India introduced a Scheme in the year 1993 and as per the said Scheme all the petitioners are entitled for grant of temporary status and regularization of their services. In fact, the Joint Director, Department of Public Enterprises. Ministry of Industry addressed a letter dated 17.10.1996 to all the concerned condemning the engagement of contract labour in such nature of jobs by various Public Sector Undertakings like the 2nd respondent-Institute. In fact, on the strength of the said letter, the 1st respondent has also issued a letter to the 2nd respondent on 27.11.1996 seeking detailed information. However, there was no further development in the matter and the services of the petitioners were not regularized. Therefore, they submitted a representation to the 2nd respondent-Institute on 27.11.1997 seeking regularization of their services in the Institute. There was no response. However, the petitioners are being continued as daily wage contingent

labourers even though they had put in 3 to 17 years of service. Such an action on the part of the authorities is highly illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India.

A detailed counter-affidavit has been filed on behalf of the respondents denying the allegations made by the petitioners. It is asserted that the petitioners were engaged by a Contractor and they are contract labourers with the said contractor. They were continued as daily wage contingent employees for some time in the year 1985 and thereafter they had been discontinued. Subsequently they were engaged as contract labour for certain periods. As per 1993 Scheme, contract labourers cannot claim regularization since there is no relationship of employer and employee. Unless there exists the relationship of principal employer and workmen, contingent employees cannot claim regularization as a matter of right, and further the allegation that they are continuously working without any break is baseless and the averment to that effect is specifically denied. As per the need the contractor was engaging contingent labour for specific periods and after completion of the work the amount due to him was being paid, and therefore, the contention that they are working in regular posts as Peon, Chowkidar, Farash, Sweeper and Mali sanctioned under Class-IV Category is not correct. The petitioners cannot compare themselves with that of Mr. Krishnaiah, since they were working as contract labourers whereas Mr. Krishnaiah was engaged on daily wage basis and he was appointed as a Class-IV employee basing on his performance in the interview conducted for Class–IV category post. None of the petitioners was engaged or worked continuously for 17 years. All the payments due to the Contractor were paid up to 10.11.1998. If the petitioners have any grievance regarding payment, they are at liberty to approach appropriate forum and work out their remedies. The Writ Petition is therefore, devoid of any merit.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the material made available on record.

At the outset, I am of the opinion that the petitioners have not made out any case to grant them relief as prayed for.

Petitioners have not placed any acceptable documentary evidence to show that they were not contract labour and they were only casual labourers so that their case was to be considered as per the Scheme evolved by the Government of India in the year

1993.

The learned counsel for the petitioners strenuously contended that the respondents have adopted unfair labour practice and they named one of the petitioners as Contractor for one month and paid the wages. Likewise, they would be naming any one of them for another month and making payments. In fact, there is no licenced contractor who has supplied labour to the respondent-Organisation. Therefore, it requires examination by lifting corporal veil as to whether the petitioners are contract labour or they are casual employees engaged by the respondent-Organisation.

However, no acceptable material has been placed before this Court and in the counter-affidavit filed by the respondents it has been specifically asserted that the petitioners do not fit into the Scheme of 1993 since they are the labourers engaged by a contractor.

Learned counsel for the petitioners would submit that unless and until the concerned records are produced and examined by this Court it would be difficult for the petitioners to prove that they are casual labourers and not contract labour. I am afraid, I cannot accept the contention raised by the learned counsel for the petitioners in this regard.

If really the petitioners are aggrieved and if they are really casual labourers, nothing prevented them from approaching appropriate fact finding forum and inviting judgment by leading both oral and documentary evidence. This is not a case where the allegations made by the petitioners are admitted in toto by the respondents, so that the relief as sought for could be considered by this Court while exercising the jurisdiction under Article 226 of the constitution of India. The Writ Petition is devoid of merits and is liable to be dismissed.

The Writ Petition is accordingly dismissed. No costs.

However, this will not preclude the petitioners from approaching appropriate forum and work out their remedies as are available to them under law.

8th August, 2005.

Kgr

Issue CC in three days.

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE EIGHTH DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

-

WRIT PETITION NO : 29409 of 1998

Between:

1 N.Narasimha, S/o Babaiah
Working at Central Institute for Rural Electrification, Sivaram Pally, Hyderabad-500 052
2 B.Yadagiri, S/o Laxmaiah
Working at Central Institute for Rural Electrification, Sivaram Pally, Hyderabad-500 052
3 M.Mallesh, S/o Kistaiah
Working at Central Institute for Rural Electrification, Sivaram Pally, Hyderabad-500 052
4 B.Yadamma, W/o Satyanarayana
Working at Central Institute for Rural Electrification, Sivaram Pally, Hyderabad-500 052
5 Rukmini Bai, W/o Lalagi
working at Central Institute for Rural Electrification, Sivaram Pally, Hyderabad-500 052
6 M.Ramesh, S/o Jangaiah
Working at Central Institute for Rural Electrification, Sivaram Pally, Hyderabad-500 052
7 Rajamani, W/o A.Sattaiah
Working at Central Institute for Rural Electrification, Sivaram Pally, Hyderabad-500 052
8 I.Bhikshapathi, S/o Balaiah
Working at Central Institute for Rural Electrification, Sivaram Pally, Hyderabad-500 052

..... PETITIONERS

AND

1 Rural Electrification Corporation Ltd., Government of India Enterprises, Rep.by its Chairman-cum- Managing Director.
Core 4 Scope Complex,7 Lodi Road, New Delhi-110 003
2 The Director, Central Institute for Rural Electrification (of REC Ltd.,),Sivarampally, National Police Academy Post,
Hyderabad-52

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate order or direction in the nature of a Writ directing the respondents herein to grant Temporary Status and Regularisation of their services in the 2nd Respondent Institute in terms of the scheme of Casual Labourers (Grant of Temporary Status and Regularisation)Scheme of Government of India,1993 with all consequential benefits

such as seniority, payment of wages etc and pass

Counsel for the Petitioner: Mr. VEMURIVENKATESWARA RAO

Counsel for the Respondent No.: Mr. D.PHANENDRA RAO

The Court made the following :